



**U.S. Department of Justice**

*United States Attorney's Office  
District of Delaware*

1007 N. Orange Street, Suite 700  
P.O. Box 2046  
Wilmington, Delaware 19899-2046

(302) 573-6277  
FAX (302) 573-6220  
TTY (302) 573- 6274  
Toll Free (888) 293-8162

December 5, 2005

**VIA E-FILING AND HAND DELIVERY**

The Honorable Kent A. Jordan  
U.S. District Court, District of Delaware  
J. Caleb Boggs Federal Building  
Room 6325  
Lockbox 10  
844 King Street  
Wilmington, DE 19801

Re: United States Department of Health and Human Services. v. Southern Delaware  
Center for Children and Families, Inc. et al., No. 05-809 (D. Del.)

Dear Judge Jordan:

I write to briefly update the Court regarding the above-referenced action.

On December 1, 2005, the Court granted the oral request of Leonard Lucas, Esq., to withdraw as counsel for Defendants because Mr. Lucas was unable to communicate with Defendants' local counsel, purported to be Mr. Melvin Jews. In granting the request, the Court stated that the briefing schedule on Plaintiff's Motion for Temporary Restraining Order, or in the Alternative, a Preliminary Injunction, remained in effect, meaning Defendants were required to respond to Plaintiff's Motion by 12:00 p.m. today, December 5, 2005. (D.I. 12.)

Also, on December 1, 2005, the Court faxed copies of its Orders (including the Court's scheduling order, D.I. 9) and the transcript of the December 1, 2005 teleconference to Defendant Carolyn Williams. That same day, as the Court instructed, I faxed a copy of the transcript to Ms. Williams and spoke to her by telephone and reminded her of the Defendants' obligation to respond to Plaintiff's Motion pursuant to the Court-ordered schedule. I left the same message for Defendant Frank Ogundare on his answering machine. I have left three phone messages with Mr. Jews' office but he has not returned my calls.

As I write this letter (at 2:45 p.m.), the United States Attorney's Office has not received a response to Plaintiff's Motion.

It has now been over five weeks since Plaintiff first demanded that Defendant Southern Delaware Center for Children and Families, Inc. turn over federal property and Head Start records to

the interim Head Start grantee, Community Development Institute (“CDI”), and twelve days since Plaintiff filed its Motion. During that time, Defendants have: (1) allowed CDI access to the Milford Head Start facility; (2) signed an agreement allowing CDI to use Southern Delaware’s Head Start vehicles; (3) provided keys and photocopies of titles to only two (out of at least eight) of those vehicles; and (4) signed an agreement allowing CDI access to the Laverty Lane Head Start facility.

Defendants continue to refuse to provide CDI with: (1) all equipment and supplies purchased with Head Start funds; (2) access to the Administrative Office facility that was rented with Head Start funds; (3) keys and original titles to all Head Start vehicles; (4) a final inventory of equipment purchased with Head Start funds (in part so that CDI can know what equipment needs to be acquired in order to fully resume Head Start services); and (5) access to Southern Delaware’s Head Start records. Defendants have failed to provide any reason to justify their refusal to turn over all federal property and provide access to Head Start records. They have simply refused.

Given Defendants’ failure to respond to Plaintiff’s Motion, we respectfully submit that the Court may and should, in its discretion, consider Plaintiff’s Motion to be unopposed and grant appropriate relief. See, e.g., Carter v. Brady, No. 99-757 JJF, 2004 WL 724953, at \*2 (D. Del. Mar. 29, 2004) (denying motion to reconsider decision to treat Plaintiffs’ motion in limine as unopposed because Defendants failed to timely file a response to the motion in limine).

In the alternative, Plaintiff respectfully requests that the Court, consistent with its busy schedule, arrange a teleconference with the parties and the Court in advance of the hearing set for Wednesday, December 7, 2005 at 9:30 a.m., to determine what portions of Plaintiff’s Motion – if any – that Defendants plan to contest at the hearing. The Court’s original schedule, before the appearance of Mr. Lucas, provided for such a pre-hearing teleconference.

I am available at the call of the Court to address any questions or concerns.

Respectfully,

COLM F. CONNOLLY  
United States Attorney

By: /s/ Seth M. Beausang  
Seth M. Beausang (I.D. No. 4071)  
Assistant United States Attorney

cc: Francis A. Ogundare (by fax to (302) 629-6706)  
Carolyn Williams (by fax to (302) 628-3001)  
Southern Delaware Center For Children and Families, Inc. (by fax to above numbers)